

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BRIAN A. McVEIGH, et al.,

Plaintiffs,

v.

**CALLAN ASSOCIATES
INCORPORATED, et al.,**

Defendants.

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Case No.: 2:09-CV-0685-RDP

ORDER

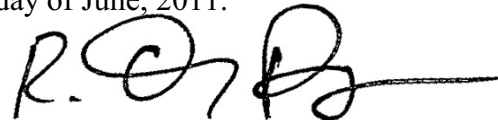
This case was originally filed in this court on April 8, 2009 by Brian A. McVeigh and Lynne Whitten. Counsel for Callan Associates Inc. (“Callan”) notified the court on August 31, 2009 that they had filed a petition for writ of mandamus in the Supreme Court of Alabama earlier that day, which petition purportedly “raise[d] threshold jurisdictional issues closely similar to those that Callan and the other defendants [had] raised in their motions to dismiss.” (Docs. #54, 56). Accordingly, this court stayed all proceedings in the case before it pending the Supreme Court’s ruling on Callan’s petition for mandamus. (Docs. #60, 61). That petition has been fully briefed and awaiting decision since November 30, 2009. (*See* Doc. #81). Although originally set for oral argument on March 31, 2011, the case was later removed from the March 31 sitting because four justices recused themselves from participation. (Doc #79). Oral argument has not been rescheduled. (Doc. #81).

Given the fact that Callan’s petition for writ of mandamus had been awaiting decision for more than 500 days, on April 19, 2011 the court entered an order (Doc. #82) questioning whether continuing to stay this case was still an efficient solution and required briefing from the parties on

that issue. Defendants Rhumblin Advisers, Earnest Partners, LLC, Acadian Asset Management LLC, Western Asset Management Company, Principal Global Investors, LLC, INTECH Investment Management LLC, and Turner Investment Partners Incorporated (collectively referred to as “Asset Managers”) filed a brief in response to the court’s order on May 11, 2011 (*see* Doc. #83). Defendant Callan filed a brief in response to the court’s order on the same date (*see* Doc. #84). All Defendants are in agreement that the circumstances that led to the imposition of the stay have not changed and further do not object to a continuation of the stay until such time as the Alabama Supreme Court renders a decision on Callan’s mandamus petition in *Perdue v. Callan Associates et. al*, CV-09-900556. (*See* Doc. #83 at 4; *see also* Doc. #84 at 5-7). Plaintiffs have not responded to the court’s April 19, 2011 order.

Accordingly, the stay will remain in effect in this case until further notice. The parties are **DIRECTED** to file a joint report with the court **within three (3) business days of any action by the Supreme Court of Alabama, or by July 29, 2011, whichever occurs first**, updating the court on the status of the petition for writ of mandamus.

DONE and **ORDERED** this 6th day of June, 2011.

A handwritten signature in black ink, appearing to read "R. David Proctor", written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE